

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

JOHN BENSON

v.

LARRY MAHALLY, et al.

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CIVIL ACTION

NO. 18-cv-02762

ORDER

This 23rd day of September 2019, upon careful and independent consideration of Petitioner John Benson's Objections, the objections are **OVERRULED**. The objections repeat arguments properly dealt with in the Report and Recommendation of the Honorable Timothy R. Rice.

Accordingly, following review of the Petition, Responses, Objections, and record, it is **ORDERED** that:

1. The Report and Recommendation of Magistrate Judge Timothy R. Rice is APPROVED and ADOPTED;
2. Benson's Petition for Writ of Habeas Corpus is DENIED and DISMISSED with prejudice by separate Judgment, filed contemporaneously with this Order. See Federal Rule of Civil Procedure 58(a); Rules Governing Section 2254 Cases in the United States District Courts, Rule 12;
3. No certificate of appealability shall issue under 28 U.S.C. § 2253(c)(1)(A) because "the applicant has [not] made a substantial showing of the denial of a constitutional right[.]" under 28 U.S.C. § 2253(c)(2), since he has not demonstrated that "reasonable jurists" would find my "assessment of the constitutional claims debatable or wrong." *Slack v. McDaniel*, 529 U.S. 473,

484 (2000); *see United States v. Cepero*, 224 F.3d 256, 262-63 (3d Cir. 2000), *abrogated on other grounds by Gonzalez v. Thaler*, 565 U.S. 134 (2012); and,

4. The Clerk of Court shall mark this file closed.

BY THE COURT:

/s/ Gerald Austin McHugh

HON. GERALD A. MCHUGH
U.S. District Judge